

ADVISORY OPINION 98-010

Any advisory opinion rendered by the Registry under subsections (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

August 7, 1998

Dr. Kevin T. Kavanagh
Chairman-Pulaski County GOP
3396 Woodhaven Drive
Somerset, Kentucky 42503

Dear Dr. Kavanagh:

This is in response to your letter dated July 8, 1998, requesting an advisory opinion regarding the purchase of stock by the Pulaski County Republican Executive Committee ("Executive Committee") in a corporation organized for the purpose of ownership and management of a building which the Executive Committee would like to acquire for its headquarters.

Specifically, you ask the following:

- 1.) Whether the Executive Committee may own stock in the corporation, and if so, whether it could receive benefits from the ownership of the stock;
- 2.) Whether the Executive Committee should acquire the property through another form of ownership than by a stock purchase;
- 3.) Whether the Executive Committee could jointly own and use the same headquarters with the Republican Woman's Club and Lincoln Club, neither of which is a corporation; and
- 4.) Whether the Executive Committee may receive rent from property that it owns.

Dr. Kevin T. Kavanagh

The following constitutional provision and statutory sections are applicable to your questions:

- Section 150 of the Kentucky Constitution:

If any corporation shall, directly or indirectly, offer, promise or give, or shall authorize, directly or indirectly, any person to offer, promise or give any money or any thing of value to influence the result of any election in this State, or the vote of any voter authorized to vote therein, or who shall afterward reimburse or compensate, in any manner whatever, any person who shall have offered, promised or given any money or other thing of value to influence the result of any election or the vote of any such voter, such corporation, if organized under the laws of this Commonwealth shall, on conviction thereof, forfeit its charter and all rights, privileges and immunities thereunder.

- KRS 121.025:

No corporation...shall contribute, either directly or indirectly, any money, service, or other thing of value towards the nomination or election of any state, county, city or district officer in this state, or pay, promise, loan, or become liable in any way for any money or other valuable thing on behalf of any candidate for office at any election, primary or nominating convention held in this state.

- KRS 121.035(1):

No corporation organized or authorized to do business in this state or in another state shall, by itself or by or through an officer, agent, attorney, or employee, subscribe, give, procure, or furnish, or afterwards reimburse or compensate in any way any person who has subscribed, given, procured, or furnished, any money, privilege, favor, or other thing of value to any political or quasi-political organization, or any officer or member thereof, to be used by such organization for the purpose of aiding, assisting, or advancing any candidate for public office in this state in any way whatever.

- KRS 121.150(21):

No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly. (emphasis supplied)

The above-cited constitutional and statutory provisions clearly prohibit corporate involvement in the nomination and election of candidates, either through direct or indirect contributions. KRS 121.015(6)(a) defines a “contribution” to include “[p]ayment, distribution, loan, deposit, or gift of money or other thing of value, to a ... committee ...” except for “[a] loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business.” (emphasis supplied) (KRS121.015(7)(b)) Therefore, it would appear impossible for the Executive Committee which supports candidates to become a corporate stockholder without violating campaign finance statutes either through receipt of dividends or use of corporate property.

The Executive Committee may purchase or lease property consistent with its purpose through any form of ownership that is not in conflict with the above-cited statutes and may share its headquarters provided that the expenses are properly apportioned and reflected in its reports to the Registry.

Finally, the Executive Committee may receive rent from any property that it owns provided that the rental reflects the fair market value for its use.

If you have any further questions, please do not hesitate to contact the Registry staff.

Sincerely,

Rosemary F. Center
General Counsel

RFC/db